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**The Regular Meeting of the Mayor and Council of the City of Milton was held on October 20, 2008 at 6:00 PM, Mayor Joe Lockwood presiding.**

**INVOCATION**

Tass Welch, Community Minister, Community of Christ Church led the invocation.

**CALL TO ORDER**

**Mayor Lockwood** called the meeting to order.

**ROLL CALL**

**City Clerk Marchiafava** called the roll and made general announcements.

**Council Members Present:** Councilmember Karen Thurman, Councilmember Julie Zahner Bailey, Councilmember Bill Lusk, Councilmember Burt Hewitt, Councilmember Tina D'Aversa, Councilmember Alan Tart

**PLEDGE OF ALLEGIANCE**

**Mayor Lockwood** led the Pledge of Allegiance

**Mayor Lockwood**

- Wanted to take a few minutes to share an experience he had a week and a half ago.
- We had an eighth grade student from Hopewell Middle School bid on the Mayor for a Day, which was a fund raising event.
- The purpose was for this young man to come and hang out with the Mayor for a day to learn what happens in the City.
- Brad and his father Chris came to City Hall and we took a tour.
- We went to every department in the City and talked to the Department Heads and other staff.
- We went to the GIS department and they showed them satellite maps of their house.
- They got a little taste of what each department does.
- We looked at police cars and talked to the officers.
- We rode in the fire truck.
- We took them to lunch with some firemen.
- He got to use the jaws of life.
- We went to the Alpharetta 911 Center.
- The point to the story is a lot of times we just get to hear negative things from press where they make a mountain out of a mole hill, but to see the expression and hear the comments from this father and son was very rewarding.
- The people here are so sharp.
- They are doing a great job and they are so impressive.
- It was very nice to look at it from a third party's eyes to see what our staff does every day.
- They could not believe how professional and competent everyone was.
- He said we should thank our staff and let them know they should be proud and also our Council.
- He thinks we should do more of that so people can see all of the good things happening in Milton.

**City Clerk Marchiafava** read agenda item 08-695.

### **APPROVAL OF MEETING AGENDA**

Staff recommended the following changes to the Meeting Agenda:

1. Under the Consent Agenda remove Approval of the October 13, 2008 Work Session Minutes until November 3, 2008.
2. Under First Presentation, add a first reading for Approval of an Ordinance establishing Noise Control within the City of Milton.
3. Under New Business, add a Resolution of the Mayor and City Council of the City of Milton Georgia in support of November 4, 2008 Atlanta Fulton Public Library System Bond referendum.
4. Add a Resolution appointing Mortimer L. Smedley as Interim City Manager.
5. Add an Executive Session to discuss potential land acquisition.

**Motion and Second:** Councilmember Lusk moved to approve the meeting agenda, as amended. Councilmember Thurman seconded the motion.

#### **Discussion on the Motion:**

##### **Councilmember Tart**

- We have a seven day rule and if things are to be added to the agenda it needs to be done outside of seven day unless it is an emergency.
- He is not sure this rises to that level.

##### **Mayor Lockwood**

- Will defer to the City Attorney.
- There is a time frame on this and if we postpone it, we cannot do it.

##### **City Attorney Jarrard**

- He thinks Council could determine there is an emergency.
- To be added to the agenda, the rule is it has to be some sort of emergency intrical to the operations to the City and the Council should determine whether this meets that standard or not.
- Need to do that by way of motion and vote.

##### **Councilmember Lusk**

- Asked if we could suspend the rules in this case.

##### **City Attorney Jarrard**

- It is allowed to suspend the rules.
- It would require motion and vote.

##### **Councilmember Tart**

- It would require two thirds vote.

##### **Mayor Lockwood**

- Asked if the correct thing would be to pull this item from the agenda and vote on it separately.

##### **City Attorney Jarrard**

- To Councilmember Tart's point to have it on the agenda at all even in the context of Consent Agenda would still require that standard be met.

**Councilmember Thurman**

- When she brought this forward in the middle of the week last week, she mentioned the fact she knew we had not met the seven day requirement at that time.
- Because this would have to be done now or not at all because of the election date, she had asked if it would be possible to add it to the agenda.

**Mayor Lockwood**

- Asked if it would behoove us to decide if this is a critical item or to suspend the rules.

**City Attorney Jarrard**

- Tends not to be in favor of suspending the rules unless it is an extraordinary circumstance.
- In this situation, if Council believes that if they do not act this evening their voice will not be heard at all on this issue, then you might want to make a motion to add this to the agenda on the basis it is an emergency item.
- That will be on the record and will establish precedent.

**Councilmember Zahner Bailey**

- Asked the City Attorney if he would repeat the statement about how he would define an emergency item.

**City Attorney Jarrard**

- His belief is an emergency item is one that is essential to being decided in a timely manner even if it is in contraction of the seven day rule because the operations of the city require it.

**Councilmember Zahner Bailey**

- Because of the precedent setting nature of suspending our rules, it concerns her from that perspective.
- She does not believe the Resolution is paramount to our operations.

**Councilmember Thurman**

- She asked for comments when she submitted, but no one commented.
- She would appreciate in the future that people would communicate at the time they are asked to communicate.

**Mayor Lockwood**

- Thinks he is hearing the City Attorney say we could add this if we feel it is a time issue.
- Asked what we need to do about the motion and second on the floor.

**City Attorney Jarrard**

- They would need to withdraw that second and motion and make a motion to add this to the agenda because Council believes this is an emergency item.

**Motion and Second withdrawn.**

**Motion and Second:** Councilmember Lusk moved to approve the Meeting Agenda as modified and as read with the exception, the Resolution for the support of November 4, 2008 Atlanta Fulton Public Library system Bond referendum based on Council vote affirming that a vote on the Resolution is appropriate. Councilmember Thurman seconded the motion.

**Discussion on the motion:**

**Councilmember Tart**

- Would add that there was a proposed Resolution that came before us before that dealt with City operations and sewer and he would say that was a little more of an urgent issue than this.
- He is hesitant about doing this because there is a vote coming up on a referendum that this body has no bearing on.
- It is a citizen voted referendum, so he would be cautious setting a precedent of what we consider an emergency for putting something on the agenda seven days out.

**City Attorney Jarrard**

- The definition of emergency is the one articulated from him.
- An emergency could be something Council deems compelling enough to warrant this kind of action.

**Mayor Lockwood**

- It is a Fulton County issue and it does effect our citizens.

There was no further discussion on the motion.

**Vote:** The motion passed 5-2, with Councilmember Zahner Bailey and Councilmember Tart opposed.

**PUBLIC COMMENT**

**Mayor Lockwood** read the rules for Public Comment.

- Public comment is a time for citizens to share information with the Mayor and City Council.
- To provide input and opinions for any matter that is not scheduled for its own Public Hearing for today's meeting.
- There is no discussion on items on the Consent Agenda or First Presentation or from Council.
- Each citizen who chooses to participate in Public Comment must complete a comment card and submit it to the City Clerk.
- This is not a time to engage the Mayor or Council in discussion.
- When your name is called please come forward and speak into the microphone stating your name and address for the record.
- You will have five minutes for remarks.

**Bob Meyers**, 3265 Wolf Willow Close, Milton, Georgia

- He is here to thank the City of Milton and Council and the Public Safety Department for making possible for him to attend the Citizens Police Academy.
- We met for five Wednesday evenings at the Police Station.
- Various officers spoke about their specialties.
- It was very informative.
- He had the opportunity for a ride along with one of the officers.
- It was an exceptional learning experience.
- He believes it is important that citizens understand more about how their police department works and what it does for us every day.
- So much goes on behind the scenes.
- They put their lives on the line for us everyday and they do not get a lot of recognition or thanks.
- Thanked Chris Lagerbloom and all of the officers involved.
- Hopefully, with more publicity attendance will be greater when they do it again.

**CONSENT AGENDA**

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**City Clerk Marchiafava** read the Consent Agenda items.

(Agenda Item No. 08-696)

1. Approval of the Financial Statements for the period ending August 2008.

(Agenda Item No. 08-697)

2. Approval of the October 6, 2008 Regular Meeting Minutes.

(Agenda Item No. 08-698) *Removed by Motion and Vote*

3. Approval of the October 13, 2008 Work Session Minutes.

**Motion and Vote:** Councilmember Hewitt moved to approve the Consent Agenda, as amended. Councilmember D'Aversa seconded the motion. There was no Council discussion. The motion passed unanimously.

### **FIRST PRESENTATION**

**City Clerk Marchiafava** read the First Presentation item.

*Added by Motion and Vote:*

**Approval of an ordinance amending the Noise Control Ordinance within the City of Milton, Georgia**

**Motion and Vote:** Councilmember Zahner Bailey moved to approve the First Presentation of an Approval of an Ordinance Amending the Noise Control Ordinance within the City of Milton, Georgia. Councilmember Thurman seconded the motion. The motion passed unanimously.

*The motion to suspend the rules and add this item failed later in the meeting.*

### **PUBLIC HEARING**

**City Clerk Marchiafava** read agenda item 08-699.

**Approval of Alcohol Beverage License Application for Brooklyn Joe's One, Inc., d/b/a Brooklyn Joe's Pizza, pasta and Grill at 13065 Highway 9 N, Suite 110, Milton, Georgia. The applicant is G. Brian Miller for consumption on Premises – Wine and Malt Beverage.**

**Finance Manager Stacey Inglis**

- The applicant is in compliance with all of the city ordinances and we recommend Council approve this Alcohol Beverage License.

There was no Public Comment.

**Motion and Vote:** Councilmember D'Aversa moved to approve Alcohol Beverage License Application for Brooklyn Joe's One, Inc., d/b/a Brooklyn Joe's Pizza, pasta and Grill at 13065 Highway 9 N, Suite 110, Milton, Georgia. The applicant is G. Brian Miller for consumption on Premises – Wine and Malt Beverage. Councilmember Tart seconded the motion. There was no Council discussion. The motion passed unanimously.

**City Clerk Marchiafava** read agenda item 08-700.

**Approval of Alcohol Beverage License Application for Nan's Sushi, LLC d/b/a Nana's Sushi at 13020 Morris Road, Suite J, Milton, Georgia. The applicant is Kyong McLean for Consumption on Premises – Wine and Malt Beverage.**

**Finance Manager Inglis**

- This applicant has met all of the legal requirements and is in compliance with all of the City ordinances.
- We recommend approval.

**Councilmember Thurman**

- Noticed the address is the same as the approval for the next item and asked if they were at the same location.

**Finance Manager Inglis**

- It is the gas station at the strip mall on Morris Road.

There was no Public Comment.

**Motion and Vote:** Councilmember Hewitt moved to approve Alcohol Beverage License Application for Nan's Sushi, LLC d/b/a Nana's Sushi at 13020 Morris Road, Suite J, Milton, Georgia. The applicant is Kyong McLean for Consumption on Premises – Wine and Malt Beverage. Councilmember Thurman seconded the motion. There was no Council discussion. The motion passed unanimously.

**City Clerk Marchiafava** read agenda item 08-701.

**Approval of Alcohol Beverage License Application for Elegant Food Services, LLC d/b/a Elegant Food Service at 13020 Morris Road, Milton, Georgia. The applicant is Arash Mosaeli and Alireza Hafezi for Wine and Malt Beverage.**

**Finance Manager Inglis**

- This applicant has met all of the legal requirements and is in compliance with all of the ordinances for the City of Milton.
- We recommend approval.

There was no Public Comment.

**Motion and Vote:** Councilmember Thurman moved to approve Alcohol Beverage License Application for Elegant Food Services, LLC d/b/a Elegant Food Service at 13020 Morris Road, Milton, Georgia. The applicant is Arash Mosaeli and Alireza Hafezi for Wine and Malt Beverage. Councilmember Zahner Bailey seconded the motion. There was no Council discussion. The motion passed unanimously.

**ZONING AGENDA**

**City Clerk Marchiafava** read the Zoning Rules.

At the second regularly scheduled meeting of the month, the mayor and City Council consider a Zoning agenda. These items include rezoning petitions, modifications of zoning, use permits, and associated concurrent variances, in addition to ordinances, resolution, and text amendments.

The petitions will be heard in the sequence listed on the posted agenda. I would like to acquaint you with some of the rules and procedures for this meeting.

The applicant, and all those speaking in support of an application, will be allowed a total of ten (10) minutes to present the petition. The applicant may choose to save some of the time for rebuttal following the presentation by the opposition.

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The opposition will be allowed a total of ten (10) minutes to present its position. If time remains, the opposition will be allowed to rebut.

Since the burden of proof is upon the applicant, the applicant will be allowed to make closing remarks, provided time remains with the allotted time.

The City Clerk's staff will be keeping track of time and will inform you periodically of the remaining time for your presentation.

Those called to speak will be taken in the order that the speaker cards were received by the City clerk's staff prior to the beginning of tonight's meeting.

All speakers will identify themselves by name, address and organization, if applicable, before beginning their presentation.

The Planning Commission heard the rezoning agenda items and recommendations have been forwarded to the Mayor and City Council for consideration and disposition.

In addition, the applicant shall not submit material to the Council during the meeting, unless requested to do so. All material that you wish to be reviewed by the Council in consideration of your application should be submitted to the staff of the Department of Community Development, to be included in the normal distribution of packages to the Council.

When an opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority of the respective local government at least five days prior to the Planning Commission meeting. A violation of the relevant state statute constitutes a misdemeanor. Therefore, if you have contributed \$250.00 or more to a Councilmember and you have not filed a disclosure prior to the Planning Commission meeting, the City Attorney strongly suggests that you have someone else speak for your point of view.

*(Zoning Minutes are typed verbatim)*

**City Clerk Marchiafava** read agenda item 08-683.

**ZM08-06/VC08-05 - 765 and 785 Mid Broadwell Road, To modify Condition 2.a. and 4.b. of RZ03-140 (ZM06-011 NFC), to modify the site plan and to remove the requirement that the owner dedicate to Fulton County (City of Milton) the necessary right-of-way to provide a connector road from Broadwell Road to Mid Broadwell Road prior to attaining an LDP, or as may be approved by the Director of Public Works. The applicant is also requesting a concurrent variance to reduce parking from 58 to 39 spaces (Article 18 Section 2.1).**

**Mayor Lockwood:**

I talked to our City Attorney prior to our meeting and my wife happens to be one of four partners that rent a house that is on this property, therefore, I do not believe there is any direct tie into that but in all fairness, I am going to recuse myself so I do not have any influence on this because as I said my wife does rent property there. In talking to the City Attorney, he said I could just sit back from the meeting and recuse myself from the microphone and not have any discussion or influence on this.

**City Attorney Jarrard:**

That is correct; you will just need to move back from the microphone.

**Community Development Director Alice Wakefield:**

As was stated this is a modification. The applicant is requesting to modify two conditions of zoning. One is dealing with the site plan and the second one dealing with the dedication of right of way. The applicant is also requesting a concurrent variance to reduce the number of parking spaces. The recommendation of staff is approval of condition to revise the site plan, approval of the concurrent variance but denial of the request to delete condition that would restrict or prevent the applicant from granting the necessary right of way. Robyn MacDonald will give a more detailed update on the proposal.

**Senior Planner Robyn MacDonald:**

This site is located on the western side of Mid Broadwell Road in the Crabapple Crossroads overlay district near the intersection of Mid Broadwell Road and Mayfield. On the site is currently zoned C1 and is approved for the development of 12,800 square feet of retail service commercial at a density of 9,411.77 square feet per acre pursuant to 2005 Z 72 and to confirm the applicant's site plan submitted, it does show that allows 12,800 square feet. The existing condition 4B of Z0572 is approved by Fulton County on December 7, 2005, requires that the owner dedicate to Fulton County or now the City of Milton, the necessary right of way to provide a connector road Broadwell Road to Mid Broadwell Road prior to obtaining an LDP or as maybe approved by the director of Public Works. The Crabapple Community Plan is a part of the city's comprehensive plan and the transportation master plan. One plan of these planning cities is to create many vehicular and pedestrian connection options around the Crabapple Crossroads area. The city currently has a program project and federal funding with GDOT for a Mayfield to Mid Broadwell connector road. The city will look at the Crabapple area as a whole with comprehensive plan and the transportation master plan and will evaluate the scope of the GDOT project with these planning studies. Road classifications are based on access and mobility. The right of way is based on the road classification. A connector road at this location would provide mobility from Mid Broadwell to Broadwell as the primary function and access to properties as a minor function. An alley is not an appropriate road classification for the purpose of this connection. Public Works provided to the applicant a connector road layout and required right of way dedication incorporating existing right of way dedicated by Davenport Commercial Property and using a portion of the community center property adjacent to the existing utility easement on the Community Center property. This layout included the minimum amount of right of way of fifty feet based on classifications. Public Works recommends that the condition remain and that the fifty foot right of way is required. If at the completion of the comprehensive plan and transportation master plan this location is not supported the right of way could be deeded back to the owner if it is so thought that is appropriate. Based on the above analysis, staff recommends denial to delete condition 4B of Z0572.

The second request is the revised site plan and reduction in parking spaces. The applicant's site plan indicates a total of 39 spaces. The City of Milton zoning ordinance requires a total of fifty eight. Staff knows that the applicant is requesting a concurrent variance to reduce this required number. Based on the location of the required right of way on the site which limits the area to locate the parking, by granting the relief would be in harmony with the approved site plan with the Board of Commissioners. In the general purpose and intent of the zoning ordinance and the Crabapple Crossroads plan, therefore staff recommends approval conditional VC08-06. The proposed site plan is consistent with the approved site plan pursuant to Z0572 with the same number of proposed buildings with similar locations. The most significant change is the location number of parking spaces based on the requirements to provided right of way as discussed above. Therefore staff recommends that the request to revise condition 2a be approval conditional. The city arborist made the following comments. There are three specimen size trees which include a 26 inch pine, a 29 inch pine and another 29 inch pine. They will need to recompense with fifty five four inch caliper hard wood trees based on the fact that on the proposed site plan it appears that there is at this point in time not a way to preserve those trees. In conclusion, staff recommends approval conditional ZM08-06 to modify condition 2a and the request to reduce parking concurrent variance VC08-06. Based on staff's analysis regarding the deletion of 4b and that it be inconsistent with the Crabapple

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Crossroad plan, staff recommends denial. Staff recommending condition would reflect if you would decide to be in agreement with staff's recommendations.

**Mayor Pro Tem D'Aversa**

We will hear from the applicant now and any of the folks in the audience that are supporting this zoning modification.

**Sally Rich-Kolb, 765 & 785 Mid Broadwell Road, Milton, Georgia**

I appreciate Robyn's efforts and the staff recommendations to give me that parking requirement reduction. Thank you very much. What we see in the area, not only is the road taking up the required parking area but what we see in the area needing is three to five spaces per fifteen hundred square feet or five to seven spaces per two thousand square feet so if I have 12,800 square foot development, that would be 32 to 44.8 spaces which the average would come out to be 38.4. This would work and it is what we see in the area as being needed. I have been there for twenty two years but I am really basing this on just the last couple of years with the new development coming in. The reason why I am asking for the elimination of the road is one, the reason why the road got to be where it is right now is because I was going to come in for a surface pond instead of an underground detention pond. Then it was decided the road needed to be where it was located instead of where it was originally located which was part on the Community Center's property, my property, Alan Tomlin's property which is to the south of me, which is a c1 property and then Larry Davenport's. Once it was on I knew that I needed to have the parking requirements lowered but also I had to put that surface pond back underground. With the road there, the detention pond underground is going to be massive so that is a concern of mine as far as costs goes. That is one reason. The other reason is I would like to preserve as much as the natural area as possible. The trees back there and the road are placed where all of the trees are located. Another reason is that of course if I had to have the parking requirement, then I would be able to without the road. A main concern of mine is to dedicate this space and not be able to build when I need to build which I was hoping to build in March along with Larry Davenport, so we were going to build together and if the road is still dedicated, that is going to change the format of not only my underground detention pond but where buildings are placed and different things like that, so just to leave that area blank and not do the infrastructure that you probably need to do first before building, it really makes more sense to me to have a road first, or at the same time as you are building. I cannot do that because we do not know if you all have the money for the road. We really do not know if this is the right placement for the road because when I was talking to Abbey Jones before she said this is not where they had proposed the road to go. They wanted it to go from Mid Broadwell to connect to Marston. I think you have a letter that Abbey wrote to me regarding that fact. I have questions in my mind does the park and recreation even want the road to go through their property. That is all a question to me, so I would like for if this road is going to come about, I would like for there to be some kind of condition like Robyn mentioned which Abbey mentioned to me too, to have a reversal that there is a certain time frame so I can go ahead and do this building. That was two years ago when Abbey mentioned it to us so I would think that maybe a years time. This road I know will cost about two hundred thousand because I priced myself because at one time I was going to do it myself along with Fulton County. There was going to be a swap with the Community Center's property and me building the road so if you all can come up with the money that would be great. Another condition though I am thinking the fifty foot standard is not what is needed there. I would much prefer something to be natural back there. I would much prefer to have the speed limit fifteen to twenty miles per hour so I am thinking that a ten to fourteen foot lane, two lanes, that would be twenty eight, that would give you if we had a forty foot right of way, that would give plenty of room for a sidewalk as long as fourteen foot lanes which are required by the fire department and in that way I think that would be perfectly fine to do. That would save space and also I could have maybe some additional parking back there as well. Thank you.

**Mayor Pro Tem D'Aversa**

Do we have anyone else that is speaking in support of this zoning modification?

**City Clerk Marchiafava:**

Madam Mayor Pro Tem D'Aversa I do not have any other public comment cards submitted.

**From the Audience:**

I am sorry, may I speak please?

**Mayor Pro Tem D'Aversa**

Yes, is this in support of opposition?

**Buck Bell, 13225 Bethany Road, Milton, Georgia**

It is kind of the middle of the road, a little bit of both. I wish we had a third category to choose from.

**City Clerk Marchiafava:**

You did check opposed.

**Mayor Pro Tem D'Aversa**

Ok, we will move to opposed then. Go ahead Mr. Bell.

**Buck Bell:**

Like I said, I am kind of a middle of the road guy. I think Sally has got kind of a mess that has been dealt her. Crabapple's plan, we are all familiar with it. It was meant to be developed by developers. That included the property and the roads were supposed to be developed at the same time and they were supposed to have adequate parking. Consequently with this zoning for Sally and for Larry next door, it somehow got turned around to where they were to donate the land but not build the road at the same time they would do the development so the road was supposed to be developed by Fulton County at that time so it was kind of a mixed matched rule, Crabapple's plan had it intended for and I saw this tonight and again I hope I have most of my facts right is that Sally got her original zoning with the adequate amount of parking and the road was shared between three properties, maybe four counting the Community Center and when she came for her LDP, the city I guess decided to put the entire road on her property which impinged on the parking, which has now caused a compromise to compromise which should be five spaces per thousand square feet which crabapple needs, everybody needs, I was talking to Sally about giving up parking actually compromises her ability to lease or ability to put in a restaurant or a lot of things that would need more parking. It has caused her to impinge on the parking which has caused the parking to move down and it surprises me that we say well you cannot take your road away, we want the road where it is but we are going to let you have reduction in parking which is kind of like a hard ship created by the city by a loop hole that was given to Sally that she did not mean to step into to now compromise the parking. I believe what Sally was talking about and what I am hoping to reach for here is maybe a deferral to think through this more and have a little bit more planning going on. I believe that this road would be right where it is on Sally's property. I do not believe it needs to be as large as this. Those of us that are familiar with the property knows how it cuts from Mid Broadwell, just a small little arc, not even a whole full quarter of an arc over to Mid Broadwell. It is not going to be a race strip. I agree with Sally, I think it would be a great road to build in the country style with swells and no curves and gutters and things like that. Let it remain a little bit more natural. I think if you did that and reduced the size of it, you might find where she can do some on street parking the same way they did down Mid Broadwell to parallel parking along the road. I believe there are other compromises that can go on in this plan to allow Sally to have the density she has been awarded and give her the right to develop it and at the same time I think it would be rightfully so again to find the money and to go ahead and build this road in conjunction. I know that Larry Davenport has been strangled by the same situation. The cost of having to give road, to have to develop before the road was put in with no telling when the road was going to be put in. Personally as a land lord I think there would nothing worse than to designate land, develop, not develop on the designated land, five years from now be given my land back, not have enough density or place to park a build it and just end up having a bunch of unused land. It is not the best and wisest use of this land or this property so I would like to see Sally do a little bit more research. I would like for the city to find a way to help her reduce her parking, maybe not all the

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way from five to two and a half but maybe to four or somewhere like that but work together to compromise the size of this road and to think about the road going behind her property. Help her get developing and get going. I think there is some more thinking that needs to go on and that is why I think a deferral needs to happen versus flashing to approve something and flashing to deny something else. I think they are very much integrated and very much linked together. Thank you.

**Mayor Pro Tem D'Aversa**

Do we have any other comments in opposition?

**Acting City Manager Lagerbloom:**

There have been no other cards submitted.

**Mayor Pro Tem D'Aversa:**

Thank you. Would you like to speak again Ms. Rich-Kolb?

**Sally Rich-Kolb:**

I appreciate Mr. Bell's comments and I just wanted to reiterate that the parking I think is going to be workable, that we do not see doing a restaurant in the area and needing more parking. We do want that walk-ability where one person parks and walks to three or four different stores. This is just the parking requirement that I see that we have needed up there and which will continue, I am sure especially with gas being the way it is, hopefully people will commute to one store and another. I think that is about it. I do want the area to stay as natural as possible and I just appreciate Mr. Bell saying what he did about dedicating a road that may or may not be built that may be built somewhere else at your discretion and the Community Center may not even want it, so it is a hardship for me there.

**Mayor Pro Tem D'Aversa:**

Thank you. I have a couple of questions and then I will open it for Council's discussion. We will close the Public Hearing first since there are no other comment cards that have been submitted. I have a couple of questions to open it up for the Council's discussion, either for Ms Wakefield or Ms MacDonald. Can you give a little bit of the history as to why this road was deemed necessary and do you think that it would be advantageous for us to wait to determine what CPAC is going to come back to us with in regard to the planning process?

**Community Development Director Wakefield:**

Let me answer probably the easy one first. CPAC is not directly focusing on Crabapple at this time they are doing a comp plan with just more broad brush. What we will do as part of the Comprehensive Transportation Plan part of and hopefully a successful LCI is to look in greater detail at the road network for Crabapple. As far as the background, this property was part of the Crabapple Master Plan and at the time the decision was made to establish a grid pattern. One of the improvements that was recommended as part of the plan was the connection between Broadwell into Mid Broadwell and when this property came before zoning and the property next to it one of the conditions of zoning was to provide the necessary right of way as may be deemed necessary by the Department of Public Works at the time.

**Public Works Director Drake:**

To give a little bit of background, we have talked to Ms. Kolb about this at length and Mr. Davenport's property has already dedicated the piece that is needed for that to get all the way up to Mid Broadwell. When Ms. Kolb did come in and talk to us about can we reduce the road or move it I suggested to her that she go and talk to the Tomlin property folks and see if they could share any of the road over on their property. I did not hear anything back from her on that and once that happened then we decided the full road needed to be on her property. We also wanted to see if there could be some sharing but to my understanding there is not requirement on her existing zoning that they do provide that link, so she had and has the requirement to provide the link. A little bit about the fifty foot if I could just go into that a little bit on the plans you will see a three lane road with sidewalks and all

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of that we just wanted to make sure and see that gets in there. If we are talking about swales, or if we are talking about sidewalks, especially if you are talking about swales, if you are talking curves you actually require more right of way than less right of way, if you are dealing of more of the rural looking infrastructure, so fifty foot is our minimum and I would suggest we do not go anything less than that because if you do want to make it look natural either a gravel road or a paved road with the ditches and the swales and a sidewalk because this is really one of the main things about this area is if it will be walkable grid area that you have as wide of a right of way. We did not go more than the minimum. The minimum that we believe is appropriate for this area is fifty feet. Yes it will be using the road if this goes through there would not be any right of way that the City would have to pay for. We have Mr. Davenport's, this property as well as the Crabapple Community Center so it is the ability that we would need to be looking at the construction cost for such a road and that is a benefit and as well providing that grid connection. I will provide you a couple of things but I just wanted to give you a recap on that.

**Mayor Pro Tem D'Aversa:**

Can you describe to me exactly where this road runs. I do not see where the road is on this diagram.

**Public Works Director Drake:**

If you look on the proposed right of way on page 7 of 11 at the very top is yours in color or not?

**Mayor Pro Tem D'Aversa:**

Right.

**Public Works Director Drake:**

Approached the screen and stated: I can show you right here. It is hard to see but there is a very light green line that goes here. This is the road. The red is what Ms Kolb would need to provide. The blue area is the dedication that is already provided by Mr. Davenport and this section is the Crabapple Community House and this would be the piece where the road goes through.

**Mayor Pro Tem D'Aversa:**

Ok, so this part of a bigger plan for the reconstruction of the roadway in front of the main building.

**Public Works Director Drake:**

This is consistent with the Crabapple Master Plan.

**Mayor Pro Tem D'Aversa:**

Do I have any other Council discussion or questions?

**Councilmember Zahner Bailey:**

Couple of quick questions as it relates to the original zoning Ms. Wakefield I have heard mention both from the applicant as well as from Mr. Bell can you just comment about how it went. I think I heard you talk about a private public partnership that originally Fulton County and the applicant that there was maybe some shared cost of the road and can you just comment on when that became the cost of the City not the right of way, but the construction of the road?

**Community Development Director Wakefield:**

Of course this is memory when this particular property originally came before Fulton County; there was a lot of discussion between the property owner and the Department of Public Works about needing the road to go through and granting the necessary right of way. Because at the time the county was sure exactly the alignment of the right of way and how it was going to get the rest of the right of way to do the connection, they just put the catch all condition in there, to dedicate the right of way as being approved by the Department of Public Works. I can vaguely remember there being some public/private discussion where the county was going to construct the road

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but obviously that did not happen, but I do vaguely remember that discussion being part of the deliberation on the rezoning.

**Councilmember Zahner Bailey:**

I guess part of my question in addition to the right of way obviously there is a cost of the construction of the road itself. I do recall as you do that this is obviously part of that overall Crabapple plan so it is consistent with that master plan to my recollection. My question is just as we proceed from a construction stand point was there anything that was part of that condition of zoning and we may or may not be able to. We do not have that documentation in front of us perhaps, but whether or not that condition of zoning talked about any shared cost of the road construction beyond the right of way. I see Robyn saying no. Ok, beyond the road itself and that right of way dedication, I know Mr. Drake when you talk about the portion that is the right of way next to the Community Center can you speak to what amount of land will still be left, and where I am heading with my question, on the Community Center relates to parking, because I know the Community Center is obviously part of our overall park planning that we are in the process of pursuing, so when I think about the parking, I think about the opportunity for shared parking as it relates to that Community Center, so if you could speak to that I would sure appreciate it.

**Public Works Director Drake:**

Ok, I believe your question is how much of the property. I do not know what the acreage of the property and what percent this takes up. I just do not know that off the top of my head. I would, just by looking at it say it is maybe around fifteen or twenty percent. Maybe a little bit more of the property. If you could be specific about your question about shared parking?

**Councilmember Zahner Bailey:**

Yes sir, just as we think about what we are going to do from a park planning perspective obviously that road will be a portion of that land but do we yet have a since of how much parking either as currently assigned to that Community Center and/or how much space would be available for parking on that which is a part, it is not part of the development but effectively it is adjacent to, so I am trying to be forward thinking about what sort of parking requirements are we going to need in the total of that area between Mr. Davenport, Ms Rich-Kolb as well as the Community Center.

**Public Works Director Drake:**

One of the things is right now there is parking in that area where the road goes, but one of the things about the fifty foot right of way that we are talking about is you could provide on street parking so it could mitigate that through on street parking through there. The shared parking on the other side of the Community House, of the actual structure towards Mayfield right now that parking is being shared by Ms. Kolb the property right now. The actual parking on the City property is being used by the tenants as well as Mr. Statham through the court action that he is guaranteed some space on there. Does that answer your question?

**Councilmember Zahner Bailey:**

It helps, and again my whole thought process is not just this development but as this continues to evolve from an overall planning perspective, are we going to have enough parking to accommodate the Community Center, the tenants that might be potentially coming to this development as well as Mr. Davenports knowing that there is already perhaps some concerns over parking knowing we have other tenants sharing parking.

**Public Works Director Drake:**

One of the things we are very cognizant about is that we protect the parking on the Crabapple Community Center parcel and to answer your question really depends on what happens, what we are going to do with that Crabapple Community Center. Again we have that master planning offer that is coming open, that is one of the things we will be looking at is our four facilities including this one, what we are going to do with the facility and what we are going to do with the facility will dictate how much parking and we have been very clear with Ms Kolb that we want to make sure we protect the parking from that. In fact I just want to point out four spaces on the site plan,

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you must access the Crabapple property in order to if you look on her site plan there are four spaces. There is one space by itself. There are two spaces and then there are another two spaces and one of them you actually have to come from the city property to pull into the space. I am hoping that does not happen because we have talked about trying to protect those spaces and one of the things you may want to do is to tighten up the condition to on site parking spaces so that it is clear that those four spaces do not count in the 39.

**Councilmember Zahner Bailey:**

Ok, I think I captured and it is very helpful to go through this discussion. Ms Wakefield this may be a question for you. In terms of shared parking is that a condition of zoning that can sometime be applied given the proximity of this community house?

**Community Development Director Wakefield:**

You can do shared parking and it is in the zoning ordinance but the owner of the property in which you are going to be using has to agree to it.

**Councilmember Zahner Bailey:**

Again as we go through this discussion, my thought process being, and to your point Mr. Drake we do need to think about protecting accessibility for that community center since that is going to be part of our master plan process for overall Milton.

**Public Works Director Drake:**

I think the parks commission and the folks that are looking at this as the owner of this parks property until they have a plan really cannot commit to any parking until they know what they are going to use that facility for.

**Councilmember Zahner Bailey:**

So if I understand correctly part of the 38 spaces proposed on this revised site plan, include four that are accessible only through the land that is owned by the city. So there are 34 that are accessible, I am seeing two different things but according to our staff, of the 38, 4 or those are only accessible...

**Public Works Director Drake:**

I do want to make one point. Ms. Kolb does have an access easement through the property to her property. That is an access easement to the property and it is only at one point and it is actually not at the point where she is showing it and that is something we can negotiate with her to move it to that point but it does not in my opinion really dictate or allow her to have; you can have one two three access points if you wanted to use those four parking spaces.

**Councilmember Zahner Bailey:**

I am sorry to have to focus this much on parking but obviously to Mr. Drake's point it really is pretty important as it relates to the site Plan. Ms. Wakefield just as it relates to that easement and your analysis that says that reducing the parking would be or could be in harmony with the Crabapple Master Plan in light of the restrictions for parking for the Community Center and in light of some of the comments of Mr. Drake can you help us understand the five being reduced potentially to two to two and a half based on the usage proposed and what your thought process was?

**Community Development Director Wakefield:**

The whole point of the Crabapple Master Plan was to develop a walkable community where you did not rely on the vehicle where there was shared parking as was mentioned earlier, you park at one site and maybe walk to another site so that was the reasoning that staff was looking at the concurrent variance and supporting it because it is truly in line with Crabapple plan to create a walkable community and not rely on so many parking spaces. It is already been kind of known historically, because it is very similar standards when in Fulton County often times and since they are basically the same require more parking spaces than what is adequately needed and as Mr.

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Drake mentioned once the road goes through there will also be the opportunity for on street parking which would also give additional parking to the community.

**Councilmember Zahner Bailey:**

Has the Design Review Board reviewed this revised site plan yet?

**Community Development Director Wakefield:**

No.

**Councilmember Zahner Bailey:**

I would welcome their comments. I think they have a history of being able to look at some site plans and provide some perspective that perhaps a site plan might not yet reflect. Is it on an agenda for the DRB?

**Senior Planner MacDonald:**

Our process is not to have modifications to go before the Design Review Board so no modifications at this point go to the Design Review Board, only rezoning and use permits.

**Councilmember Zahner Bailey:**

Ok, well that is policy, if it be the pleasure of this board, if we wanted to have the benefit of the Design Review Board's comments as a function of this evening's discussion, we could as a matter of consensus, not only encourage that but require that it go to the Design Review Board for review. Is that true?

**Community Development Director Wakefield:**

You could do that. It would have to go as a requirement, once they seek a land disturbance but if that is the pleasure of this body, you can do that.

**Councilmember Zahner Bailey:**

I would like us just to think about that as an element. The Design Review Board has been looking at Crabapple; they have been looking at the overall area. I think it would be helpful for us to consider their input. The other thing I would like to ask about are the three trees, the poplar as well as the two pines and I realize those run along that fifty foot right of way. Again, since the Design Review Board has not yet seen this, my question when I look at the site plan is there a way to configure the placement of the building and perhaps some of the parking in a way that would not encroach on the root systems of those trees as much. I am mindful that we have a tree ordinance that is under way. I hear from both of those in support as well as those who are in that middle ground of having some question and potentially asking for deferral, what we could do to keep that area more natural and in keeping with that it concerns me that we are assuming that we need to take out all three trees versus looking for some opportunity to preserve those as part of the overall plan.

**Community Development Director Wakefield:**

I am going to have Mark Law the arborist speak to that but given the right of way for the proposed road and the location and the size of the building it may be very difficult to save those three trees.

**Arborist Mark Law:**

Yes, as discussed earlier, the location of the trees and as Alice said the building and the street is going to very severely impact the trees. The one tree in particular, the poplar, poplars are very susceptible to construction damage and with what shown here with the layout of the plan, almost half of that is critical rezone going to be impacted. My experience is least bit of construction damage; those trees will succumb to it. The pine trees, potentially with the gravel parking that is "iffy", it may make it with what is shown here we would not have to definitely remove the trees, we could still have the recompense for a bind for so many years if the trees were to die, then we have them removed and get the recompense for those. I have seen plans trying to accommodate the parking. We have not seen any alternative plans to really try to stay away from the trees, like Councilmember

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Bailey said and maybe we could work something out. At least attempt to design a plan that would stay off the trees and move it out of that area.

**Councilmember Zahner Bailey:**

I appreciate that comment. I know that this body has tried to encourage, and I think some of our policies have actually indicated through our arborists team that our goal is to look at alternatives before we automatically presume recompense versus trying to save those, so it would seem in keeping with the need perhaps to have the Design Review Board review this along with whether or not there are some parking alternatives that would take into account the Community Center as well as tree save. I just wonder as we continue through our dialogue if there would be some reason to consider a deferral for some more consideration of these various factors.

**Councilmember Hewitt:**

It seems like we do have a lot of questions that remain to be answered and I think most of them are not ones we could look up tomorrow and get answers. I think some of the things need to go through their process with CPAC and the transportation plan so I would be interested to see if the applicant would be interested in deferring this and maybe it comes up this road is needed and things can go or it is shifted, so that would be my thought.

**Sally Rich Kolb:**

I do not mind deferring it for a month or two but I do not want to defer it until there is a Comprehensive Plan which I do not know when that will be forthcoming. It could be a year or two years from now, so if you want me to address the parking in the Community Center, I could do that. There is ample parking there. There are a couple of plans that are up for the Community Center, but that park and recreation and they have not planned that yet, so even if it goes to the Design Review Board, they are not going to be able to say anything because park and recreation has to do their thing before they can really look at if as far as the parking. There is ample parking there to be used by the community at large.

**Mayor Pro Tem D'Aversa:**

Thank you. We will have Councilmember Lusk make his comments.

**Councilmember Lusk:**

Alice or Dan either one of you refresh my memory when was the Crabapple Master Plan approved?

**Community Development Director Wakefield:**

2003.

**Councilmember Lusk:**

Has anything changed in Crabapple that has affected the alignment of this proposed road?

**Community Development Director Wakefield:**

There is nothing that has been changed to the plan since 2003, so it is still in tact. I am not aware of any transportation improvements that have occurred that may change.

**Public Works Director Drake:**

I can address that. I am not sure of the name of the road but there is one road that intersects Broadwell a little bit to the south, Marstow, I am not sure if that was originally contemplated in the original Master Plan but there is the potential that either this road or another road in addition to this road could connect from Mid Broadwell. That is one thing that has happened since 2003 that could have an impact on it. That would be a four way intersection versus a three way. Again with the desire to have multiple grid systems, you could have both or one or the other, but there is a lot more uncertainty with that property with whether we can even punch through on this side. Here we know we can. All of the property is accounted for.

**Councilmember Lusk:**

So you are saying the alignment of this proposed road does not align with the center line of Marstow which would create a grid.

**Public Works Director Drake:**

That is correct. It pretty much goes right into the Alpharetta facility.

**Councilmember Lusk:**

What is the difference between this alignment and what was proposed by the Crabapple Master Plan?

**Public Works Director Drake:**

I think the Crabapple Master Plan was very conceptual in nature and I am not sure if they actually had are you talking about the actual alignment or the width of the road?

**Councilmember Lusk:**

The alignment.

**Community Development Director Wakefield:**

The Crabapple Master Plan, the street network was very conceptual, so there was nothing engineering about it in terms of the alignment. I just laid out a grid of saying this is kind of where we would like to see roads laid out in the grid fashion but it was not engineered so there was nothing magical about the alignment.

**Councilmember Lusk:**

Did it imply that it would? The alignment as it intersects Broadwell did it imply that it would be over on the Tomlin property?

**Community Development Director Wakefield:**

I really do not recall.

**Councilmember Lusk:**

I guess what I am getting at is it sounds to me as if this alignment has shifted northward and is now impacting the community Center and I wanted to know if that was the original intent with the alignment up that close which in essence I guess is creating another problem.

**Mayor Pro Tem D'Aversa:**

What was the impact of the agreement that was in place that would have you building the road Ms Kolb? Ms Kolb had mentioned that she was going to build the road and in return there was some discussion or there was an agreement that in return for offsetting a property what was the agreement that was in place?

**Community Development Director Wakefield:**

There was not a written agreement. It was a verbal discussion and an understanding. That was between Ms Kolb and public works. There was some discussion at the Board of Commissioners meeting but there was nothing that was placed in any condition.

**Mayor Pro Tem D'Aversa:**

But that would have impacted that Community Center property?

**Community Development Director Wakefield:**

Yes, and I may be wrong because they are looking at the plan right now. I believe the community property was always impacted by the grid system.

**Councilmember Thurman:**

Obviously, the ideal situation would be for us to know - number one whether or not we needed a road there and number two exactly where the road was going to go before or so she would be able to decide, building and parking and things like that. Is there any idea how long before the transportation plan is looked at? Will it look at something to this detail and also I know we have discussed the possibility of a LCI grant for Crabapple. If we are able to get that, will that be the kind of detail they look at, if it is looked as part of the updating of that master plan?

**Community Development Director Wakefield:**

The LCI, if we are successful getting the LCI for Crabapple, definitely they will look at that level of detail and that is one I can tell you in certainty when it will be completed. It has to be completed by mid-December of 2009. I believe and Dan can correct me if I am wrong is that Comprehensive Transportation Plan is sort of on the same track.

**Public Works Director Drake:**

We have federal funds set aside for a Mid Broadwell, Mayfield project and that is all it says Mid Broadwell, Mayfield. When we look at the Transportation Master Plan and when we look at the concept phase of this project we are going to look to see where specifically we want to put these funds. It could be a concept fund that would connect Broadwell to Mid Broadwell to Mayfield and then there is even discussion of putting a traffic circle at that intersection as well as contemplated by the Crabapple Master Plan, so it is taking a look at that and re-analyzing taking a look at it as part of that concept plan.

**Councilmember Thurman:**

I know in the past from looking at this whole thing and this goes back ten, fifteen and maybe even twenty years we looked at even the possibility of it being a one way type road. Has that even been looked at? Obviously if it is a one way road, you have a lot more space for parking and you also do not need near as much of a right of way. Is that something that has been looked at?

**Public Works Director Drake:**

That one way and the operations of that we will look at the entire operation of that and see what makes since when we look at the concept of that of this intersection for the federal project.

**Councilmember Thurman:**

I hate putting her on hold for a year for us to look at this. Is there any other solution that you can think of? Everything is based on the decision to made in the future, it sounds like.

**Public Works Director Drake:**

I am not sure if it is something we can make a decision here tonight. It is something we can look at and come back to you with.

**Councilmember Thurman:**

Is it something you would be able to give us more information on in thirty to sixty days?

**Public Works Director Drake:**

If that is what you want, we can expedite and take a look at this in more detail sooner versus later.

**Councilmember Thurman:**

Based on that I would like to make a motion.

**Motion and Second:** Councilmember Thurman moved to defer this case for sixty days to give staff additional time to look at some of the suggestions that have been made today, if she is not planning on starting construction until March anyway, sixty days hopefully we could have some better information to her that will allow her to maybe modify the plan to something that is more suited with what we all want. Mayor Pro Tem D'Aversa seconded the motion.

**Discussion on the motion:**

**Councilmember Zahner Bailey:**

I have a question and I appreciate very much that suggestion of Council Person Thurman. My question without a calendar in front of us is just sixty days, knowing we have holidays would put us...

**Acting City Manager Lagerbloom:**

December 15<sup>th</sup> would be the date for the zoning agenda in December.

**Councilmember Zahner Bailey:**

Ok, what is the date after December 15<sup>th</sup>? My question back to staff is going to be with every thing else is sixty days adequate knowing what you have on your plate between now and then, what would be after December 15<sup>th</sup>?

**Acting City Manager Lagerbloom:**

We would be in January then. If you bare with me a second, I can tell you it is going to be January 19<sup>th</sup>.

**Councilmember Thurman:**

I will be out of town on the 15<sup>th</sup>.

**Councilmember Zahner Bailey:**

I guess my question would be back to staff as a consideration for Councilmember Thurman and D'Aversa does sixty days from staff perspective, or does that January 19<sup>th</sup> gives you more time to do what is needed?

**Public Works Director Drake:**

Sixty days is very tight.

**Mayor Pro Tem D'Aversa:**

Ms. Kolb, just to address, I am sure your concerns are the length of time to defer this, but it sounds to me like the way the discussion is going, that we really do need to take a look at this. This may benefit you far more greatly in the long run for us to take a thorough review at this road since it was planned in 2003. Would that make it a difference for you?

**Sally Kolb:**

That would be fine.

**Mayor Pro Tem D'Aversa:**

Ok, so into January.

**Councilmember Thurman:**

Are you going to remove your second and I will change my first.

**Mayor Pro Tem D'Aversa:**

I remove my second to the motion.

**Councilmember Thurman:**

I withdraw my first motion.

**Motion and Second withdrawn.**

**Motion and Vote:** Councilmember Thurman moved to defer until January 19, 2009 ZM08-06/VC08-05 - 765 and 785 Mid Broadwell Road, To modify Condition 2.a. and 4.b.of RZ03-140 (ZM06-011 NFC), to modify the site plan and to remove the requirement that the owner dedicate to Fulton County (City of Milton) the necessary right-of-way to provide a connector road from Broadwell Road to Mid Broadwell Road prior to attaining an LDP, or as may be approved by the Director of Public Works. The applicant is also requesting a concurrent variance to reduce parking from 58 to 39 spaces (Article 18 Section 2.1). Mayor Pro Tem D'Aversa seconded the motion.

**Discussion on the Motion:**

**Councilmember Zahner Bailey:**

Knowing we will potentially defer it until January 19<sup>th</sup> when will the next Design Review Board meeting be and could this go before them in this ninety day period?

**Community Development Director Wakefield:**

The next Design Review Board is tomorrow night, but we could send it as a courtesy either November or December.

**Councilmember Zahner Bailey:**

I do not know if we need to make that a part of the motion, just for clarity, I guess I would ask the indulgence of Councilmember Thurman and D'Aversa as to whether or not that would be something we would want to add to that motion.

**Councilmember Thurman:**

That is not something our policy typically does. Is it something we can just ask her or request of her to do? We cannot require her to do it.

**Community Development Director Wakefield:**

That is what I mean, that staff could take it to the DRB as a courtesy based on the request from City Council.

**Mayor Pro Tem D'Aversa:**

Ok, we will just ask that of you guys and thank you.

**Councilmember Thurman:**

We cannot require it if we are not making a decision on it, approving it.

**Councilmember Zahner Bailey:**

Mr. Jarrard, can you weigh in? I know earlier we said that is currently not a policy and since we are not assigning conditions; would that be your concurrence, that we just need to do it as a courtesy?

**City Attorney Jarrard:**

I agree. That is correct.

There was no further Council discussion.

**Vote:** The motion passed 6-0-1, with Mayor Lockwood recused.

**Mayor Lockwood:**

Thank you Councilmember D'Aversa.

**City Attorney Jarrard:**

Mr. Mayor, may I bring up a point of order please?

**Mayor Lockwood:**

Sure.

**City Attorney Jarrard:**

When we were establishing the agenda, the issue had come up with respect to an emergency item and we had talked about an emergency item or situation. The rules do in fact define an emergency situation and I need to go back and revisit that because I believe I took the position not having all of these internalized that there was no definition of an emergency situation. An emergency is defined as a sudden unforeseen happening which requires immediate action to correct or to protect life and/or property. In light of that, my overriding obligation is to make sure you know what the law is and what the rules and in light of that the definition of emergency does have import with respect to the agenda item. I believe that agenda item we were discussing had to do with a resolution pertaining to a bond. There is another agenda item which I believe is the Noise Ordinance which may also be implicated with respect to the seven day rule as well. Now we know what the definition of emergency is and I apologize for not having it off the top of my head. In light of that we may need to re-visit the motion to place the Noise Ordinance on the agenda and the Resolution involving the bond of the agenda. If the Council was so inclined, the way to "skin this cat" so to speak would be to do what Councilmember Lusk suggested and that would be to suspend the rules and add those on. Now suspension of the rules does require unanimity, so just keep that in mind but at a minimum, you may want to think about a motion for reconsideration, with respect to placement of those items on the agenda, in light of that definition of emergency. Once you make that motion and if it is successful, then you could have a new motion and that motion may be to suspend the rules to add those items back. Forgive the procedure. I am sorry. I know that is cumbersome and awkward, but that is what the rules provide and I think in light of what an emergency situation is I am having a hard time getting my hands around what we did.

**Mayor Lockwood:**

Do I have a motion for reconsideration?

**Motion to Reconsider and Vote:** Councilmember D'Aversa moved to reconsider the items. Councilmember Lusk seconded the motion. The motion passed unanimously.

**Motion to Suspend the Rules and Second:** Councilmember Thurman moved to suspend the rules and add the Resolution and the Noise Ordinance to the agenda. Councilmember Lusk seconded the motion.

**Discussion on the motion:**

**Councilmember D'Aversa:**

I have a question for Mr. Jarrard. What are the implications of suspending the rules? Are there any negative implications from us doing that? Are there any greater requirements? I am sure you would have made us aware of them but I would be remiss if I did not ask.

**City Attorney Jarrard:**

The greater requirement is the one I just mentioned and that is unanimity. I think the suspension of the rules is to accomplish pretty much what we are trying to do and that is when our rules bind us in a way that we just simply do not think is appropriate or we think it is overly cumbersome or overly procedural, you have the ability to that, particularly on administrative items like this, where it does not appear there is going to be additional staff time and again the key is that unanimity is required. That means that every one of you has to be in agreement on that

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and that is the check and balance. I think I had mentioned and I do not want to deviate from that, I am not a big fan of suspending the rules, however, I am certainly comfortable doing that when it makes since.

**Mayor Lockwood:**

I think you have been pretty clear and we all understand it is a unanimous decision, so at this point we have a motion and a second.

**Vote:** The motion failed 6-1 with Councilmember Zahner Bailey opposed.

**City Clerk Marchiafava** read agenda item 08-684.

**ZM08-07** - 12659 Itaska Walk, to modify Condition 3.a. of RZ03-156 to reduce the side set back from 10 ft. to 4 ft along the north property line and to reduce the rear set back from 20 ft. to 8 ft.

**Community Development Director Wakefield:**

The applicant has requested a modification of 3a to reduce the rear and the side yard setback to allow an existing structure to remain. I will now turn it over to Robyn MacDonald for a detailed presentation.

**Senior Planner Robyn MacDonald:**

This is an item that was a MIX mixed use development, similar to a CUP, where there were different pods in this O3 rezoning. This particular pod had specific setbacks. It was ten foot for sides and twenty foot for rear. Basically, the petitioner had built this storage shed. I take that lightly, it is much nicer than the rest of my house, but anyway, a beautiful storage shed and unbeknownst to himself, he did not know it was build incorrectly and in the wrong place so therefore he came before us and is requesting the modification of these two items for the twenty foot setback along the rear setback and the ten foot reduced for the side setback. Staff also notes that he has support of the adjacent property owner that is most affected. He is not at all opposed to this structure remaining closer than what the zoning conditions require so staff recommends approval and I would like to clarify if you choose to approve this that it be read the perimeter building setback property except for lot number 86, 12659 the itaska walk shall be eight feet for the existing structure. Also for the minimum side yard, ten feet except for lot 86, 12659 the itaska walk shall be four feet for the existing structure. We want to make sure they do not start building other items along those property lines and encouraging into it. Thank you.

**Mayor Lockwood:**

Do we have any questions for staff? Is the applicant here? My question is and I did drive by there and I do think it is a nice looking structure and I do not necessarily have a problem with it if the neighbors do not. Is this a permanent structure or is it something that could be moved at some point down the line if it was a problem?

**Denson McKoy**, 12659 Itaska Walk, Milton, Georgia  
It is a permanent structure, yes sir.

**Councilmember Zahner Bailey:**

I have just one quick question. I think I heard staff indicate that at the time that it was built and I do not know if it was you sir or someone else that built it there, maybe just for the record as an explanation as to why those distances were not known.

**Denson McKoy:**

When we purchased the property, we proposed to the builder that we were planning to build this building and we would make it in such a way the front doors and all that it would be in alignment with the driveway and put doors on the front to make it look like a third garage and that is what we did. They told us they had all of the approvals and everything and I did not realize, I guess I was thinking more in terms of a homeowner's association type thing. And I did not think about that we needed to get a permit from the city. I just did not realize that.

**Councilmember Zahner Bailey:**

Just a quick question for staff is there any other similar situations or is this a singular situation that we would be approving this evening and a separate for Mr. Jarrard. This decision would it set a negative precedent for any of these other properties or are we able to parse this out because of the special circumstances here this evening that it would not set a negative precedent for other properties in that same area.

**City Attorney Jarrard:**

It seems to me like this one probably stands alone and would not set that sort of precedent.

**Councilmember Thurman:**

Similar to a variance request?

**City Attorney Jarrard:**

Right.

**Councilmember Zahner Bailey:**

Is staff aware of any other similar situations?

**Community Development Director Wakefield:**

I am sure there are but I cannot recall...

**Councilmember Zahner Bailey:**

Do we have any other variances that are being requested in this specific area?

**Community Development Director Wakefield:**

No.

**Denson McKoy:**

I would like to say I appreciate Ms. MacDonald's assistance in this matter.

**Councilmember Hewitt:**

I would like to make a motion and I might ask Ms. MacDonald's assistance in making sure I get it right.

**Motion and Second:** Councilmember Hewitt moved to approve to modify condition 3a of RZ03165, to reduce the side setback from ten feet to four feet for lot 8612659 Itaska Walk for the existing structure along the north property line and to reduce the rear setback from twenty feet to eight feet for lot 8612659 Itaska Walk for the existing structure. Councilmember Lusk seconded the motion.

**Discussion on the Motion:**

**Councilmember Tart:**

I have a question. Mr. Jarrard could you help me understand because it is a beautiful building, but I am having a hard time and you had mentioned that allowing this concurrent variance or variance from the setbacks would not set a negative precedent could you help me understand that because I am thinking this is a situation where they built into the setbacks and now they are coming back and basically asking for forgiveness and I understand that happens all the time but what would not set a negative precedent for somebody else down the road to do the same thing to come before us and ask forgiveness?

**City Attorney Jarrard:**

Because I do not believe variances by their very nature and by the requirements it takes to get a variance are ever really prone to setting precedent because variances by their nature are supposed to require an unusual or

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extraordinary or unique circumstances either to the property or to the situation, so once you have identified and satisfied that criteria that you have an unusual or unique or exceptional property or circumstance then you by definition, are not in a precedent setting situation. I am not trying to be glib, I am just saying that you have therefore established your unique or unusual. That is the criteria for a variance and that is why I do not think they typically lend themselves to precedent setting. Now, you need to find those things that would be the thing that you need to identify is what is unusual or what particular or peculiar hardship will occur if it is not given and you need to set that or articulate that in your motion and that is the way you make sure there is not precedent. That is how I would recommend you do it.

**Mayor Lockwood:**

Are there any other comments?

**Councilmember Zahner Bailey:**

Based on that input, I guess my question would be to the maker of the motion is there any additional data that we would want to add to that motion to clarify the unusual and unique circumstances of this variance that is the motion that is on the floor?

**Councilmember Hewitt:**

I do not have any desire to do that.

**Vote:** The motion passed 6-1, with Councilmember Tart opposed.

**Acting City Manager Lagerbloom:**

- Asked Mayor Lockwood for a short recess.

**Meeting recessed at 7:35 p.m.**

**RECONVENE**

**Motion and Vote:** Councilmember Hewitt moved to reconvene the meeting at 7:40 p.m. Mayor Lockwood seconded the motion. The motion passed 5-0. (Councilmember Lusk and Councilmember Tart were not present for the vote.)

**City Clerk Marchiafava** read agenda item 08-686.

**Approval of an Ordinance to Amend Chapter 6 of the Code of Ordinances of the City of Milton, To Establish the Code of Ethics for the City of Milton; To further and Incorporate the Policies and Laws of the State of Georgia Relating to Ethical Standards; To Create the Board of Ethics and Provide for Board Membership, Duties, and Responsibilities; To Provide for the Disposition of Ethics Complaints; to Ensure Compliance With Ethical Standards; To Repeal Conflicting Provisions; to Provide for Severability; to Provide for an Effective Date; and for other Purposes. Ordinance No. 08-10-28**

**City Attorney Jarrard:**

- These are the proposed amendments to the City of Milton Ethics Ordinance.
- It is more of a rewrite.
- There has been a lot of work put into it.
- From the stand point of ethically, the ordinance will have the City embracing the state ethic requirements.

- Both elected and employees will be required to comply.
- The ordinance modifies prohibited conflicts of interest with respect to transactions with the City.
- It is stricter.
- It provides greater detail on incompatible employment and prohibits any sort of incompatible employment where a city employee may have one job during the day and another job during the night or some sort of location where they are literally, ethically conflicted from being able to do that.
- Political campaign involvement; it provides in my estimation some pragmatic guidance.
- The old ordinance for instance would not allow city officials to endorse candidates but this one will allow it so long as the individual is not using city assets or their official title.
- Political fund raising is still not allowed.
- Section five deals with the membership of the Board of Ethics.
- There are some prohibitions and limitations with respect to when an ethics complaint must be made.
- The new rule is six months after the violation occurred.
- The old procedure required that complaints be made and the city attorney would conduct the investigation and provide a preliminary investigation; that is no longer the case.
- The City Attorney will be out of the ethics investigation business.
- The Chairman will review a complaint for procedural compliance, allow the subject of the complaint to provide a response, and the full Board of Ethics will conduct an initial review and if there is evidence to support going forward, then the ethics hearing will occur.
- The standard of review for what will satisfy an ethical finding of fault used to be a preponderance of the evidence the new evidentiary standard is the clear and convincing evidence standards, so the level of factual credibility and weight has been raised and that aids the subject of the complaint.
- It is a higher standard.
- It is an excellent product.
- The Ethics Board has done a remarkable job of presiding over the old code and this one will be even better so he recommends it.

**Mayor Lockwood:**

- Asked if the Chairman of Board of Ethics, Todd Ashley, had any comments to add on the revision.

**Todd Ashley, 1225 Whitshire Way, Milton, Georgia**

- He has nothing further to add to City Attorney Jarrard's comments.

**Councilmember Tart**

- Has a question about section 10 on page 10, appearance before city entities, there is a segment that says however a member of the City Council may appear before such groups on behalf of his constituents in the course of his duties. He asked if that would be construed depending on the meeting or the committee; could it be construed as participating in that meeting or is a matter of standing at the podium with a microphone and appearing before that group?
- Can you participate with that group if that is what the by laws of that group allowed you to do?

**Ethics Board Chairman Ashley**

- Asked if he was focusing more on participating or more on appearing.

**Councilmember Tart**

- Say there is a group and it is not a political group maybe it is a committee that is set up, but it is a City sanctioned committee and the by laws of that group, the internal operating rules and regulations of that particular group allow for participation by a City Council Member, if that Councilmember were to participate in that group would that be covered under the wording the member of the City Council may appear before such groups.

**Ethics Board Chairman Ashley**

- Being mindful of his obligation not to pre-judge or offer an opinion on something that could conceivably come before us as a judgmental body so long as the Councilmember was appearing on behalf of constituents. In other words, if a civic organization invited Councilmember X to appear on behalf of that organization, the members of which are constituents, if they were to be so invited and the Councilmember's conduct and participation conformed with the by laws and the operational aspects of the ordinance governing that body then he would struggle to see a problem there because if the invitation is extended then it is that Councilmember's job to represent the people who put in the Council chair.

**Councilmember Tart**

- For instance, if there was a CPAC meeting and the rules and procedures of that group allowed for participation of City Council members, and he were to go to that meeting and there was a question asked of me and he answered the question, he is participating in that meeting.

**Ethics Board Chairman Ashley**

- If your opinion was solicited on the spot, he could not imagine a scenario where that would cause a problem.

**Councilmember Tart**

- He does not want to approve certain wording that would give way to frivolous ethics complaints in the future, so if we need to insert certain words to make that clear. If that is what the Ethics Committee was envisioning, he needs clarification as to what they can and cannot do from an official perspective.

**City Attorney Jarrard**

- The use of the word appears is not simply to mean can be seen.
- It is implicit within that that it means to participate.
- He does not think they anticipated the role of the official would be static.
- They do mean participate.
- They will have to honor and abide by the rules of whatever that group has put together.

**Councilmember Zahner Bailey**

- Based on some information that Councilmember Thurman provided as well as a Resolution that will come before us November 3<sup>rd</sup> that document uses the term may participate.

- She would be prepared to make a motion to support this ordinance with the insertion of may participate within that section that was referenced to clarify and make sure there is no question going forward.
- Asked City Attorney Jarrard to comment on that.

**City Attorney Jarrard**

- He agrees that is implicit within the use of the word appear.

**Councilmember Thurman**

- If you put in that they may participate; there are certain times they cannot participate.
- If you put that word in there; we have a conflict between the ordinance and the resolution.

**Mayor Lockwood**

- Asked City Attorney Jarrard if it would be best to leave it as is.

**City Attorney Jarrard**

- He thinks that entire phrase appear whether it contains the words may participate or appear only, they are further clarified and controlled by after the comma, which is why the board drafted it this way provided that which means that all of the activity they can do before that comma is clarified, and in fact subject to that they have to comply with all internal rules.
- Even if the individual does participate, Councilmember Thurman is absolutely correct.
- The line share of these other organizations, Councilmembers' do not have the opportunity and will not be allowed to participate or appear.
- It is just not appropriate, not warranted, nor would that entity like it, so he is very comfortable either way.

**Councilmember Lusk**

- We vetted this same issue on the last discussion on this ordinance.
- Ultimately, the by laws of the particular organization governs.

**Motion and Second:** Councilmember Zahner Bailey moved to approve an Ordinance to Amend Chapter 6 of the Code of Ordinances of the City of Milton, To Establish the Code of Ethics for the City of Milton; To further and Incorporate the Policies and Laws of the State of Georgia Relating to Ethical Standards; To Create the Board of Ethics and Provide for Board Membership, Duties, and Responsibilities; To Provide for the Disposition of Ethics Complaints; to Ensure Compliance With Ethical Standards; To Repeal Conflicting Provisions; to Provide for Severability; to Provide for an Effective Date; and for other Purposes with two amendments: 1) Article 4, Section 10 to insert; may participate, before the phrase that says shall abide by the rules and procedures; and 2) On page 8, Section 5, replace in the heading the word County with "City". Councilmember D'Aversa seconded the motion.

**Discussion on the Motion:**

**Mayor Lockwood**

- He was hearing some concern that if we changed it, it may contradict what Councilmember Thurman had said.

**City Attorney Jarrard**

- He does not believe it does.
- He understands the concern and some of the issues that have been raised in the City.
- To him the word appear does not simply mean to show up.
- He think it does mean to participate in the meeting to the extent that the internal rules and by laws and the governing body allows it.
- He thinks participate is inferred within the word appear.
- His point is he does not think making specific what is otherwise inferred a bad thing.

**Councilmember Thurman**

- She just wanted to make sure we are not in conflict.

**City Attorney Jarrard**

- He does not think we are in conflict and he believes we have a Board of Ethics that is going to be able to interpret this statute quite nicely.

**Board of Ethics Chairman Todd Ashley**

- As a word of caution; he can see the word participate being defined variously in such a way that depending on how one participated could subject one of you to an ethics complaint.
- One of the powers of your board is to change it however you like but be advised that when you add words participate, does that mean to be present and observe or take notes, does it mean to ask to be an agenda item.

**Councilmember Zahner Bailey**

- Understands what he is saying and appreciates the comment.
- She will go back to the City Attorney's comment that the word appear is more than simply to be there.
- She is mindful that we have a Resolution that says we may participate in certain committees and she is trying to clarify and do not have any question about consistency.

There was no further Council discussion.

**Vote:** The motion passed 4-3, with Mayor Lockwood, Councilmember Lusk, and Councilmember Hewitt opposed.

**NEW BUSINESS**

City Clerk Marchiafava read agenda item 08-702.

**Approval of a contract between the City of Milton and Latta Enterprises for ADA Consulting for professional services.**

**Acting City Manager Lagerbloom**

- We heard from Marie Latta at the last work session.
- This contract was written by the City Attorney and is in conformance to meet the legal requirements of a contract.

- It does meet the requirement of being a professional service and is something the City can enter into without entertaining any other competitive style bids.
- He thinks it is the right thing for the City.
- This is initially a six month period contract.
- It is a fixed contract that totals \$25,000.
- It is based on the average of sixteen hours per week with an option to renew for an additional six months if we feel the services have been warranted in the first six month.
- Staff requests approval of this contract.

**Motion and Vote:** Councilmember D'Aversa moved to approve a contract between the City of Milton and Latta Enterprises for ADA Consulting for professional services. Councilmember Tart seconded the motion. There was no Council discussion. The motion passed unanimously.

**City Clerk Marchiafava** read agenda item 08-703.

**Consideration of the Baker Settlement Agreement.**

**City Attorney Jarrard**

- This is before you for possible affirmation and approval.
- To be clear for the record; the city fared very well with how it behaved in this issue.
- We prevailed in many of the areas we wanted to prevail in.
- Council can feel very good that the City of Milton upheld what it believed was correct.
- This agreement does not contain any issue with respects to fees.
- It is a reasonable settlement for the City of Milton trying to do the right thing.

**Motion and Second:** Councilmember Thurman moved to approve Consideration of the Baker Settlement Agreement. Councilmember Lusk seconded the motion.

**Discussion on the Motion:**

**Mayor Lockwood**

- Asked what the next step would be if this passes.

**City Attorney Jarrard**

- This would be in front of the BZA at their next meeting.
- After they approve it, the Bakers intend to pick up their CO the next morning and the case is over.

**Mayor Lockwood**

- Asked if the BZA supersedes Council on the decision.

**City Attorney Jarrard**

- They are simply dual approvals.

There was no further Council discussion.

**Vote:** The motion passed unanimously.

**City Clerk Marchiafava** read agenda item 08-704.

**Approval of three multi-year zero-dollar professional Service Agreements for on-call planning and engineering services with Kimley-Horn, Street Smarts, and URS”.**

**Public Works Director Drake**

- Staff recommends approval of the contracts.
- The City of Milton went through an extensive procurement process initiating with an RQ sent out to planning and engineering consultants on June 5, 2008.
- We evaluated 26 responses.
- We short listed it to six.
- We interviewed the six and selected these three from those six.
- These are zero dollar agreements that individual project work will be defined by task orders.
- That is where you will encumber the city funds.
- All task orders are subject to the terms and conditions of these three master agreements.
- Task orders greater than fifty thousand dollars will come before Council for approval.
- Those under fifty thousand will be brought for approval on the consent agenda.

**Motion and Vote:** Councilmember Hewitt moved to approve three multi-year zero-dollar professional Service Agreements for on-call planning and engineering services with Kimley-Horn, Street Smarts, and URS”. Councilmember Thurman seconded the motion. There was no Council discussion. The motion passed unanimously.

**City Clerk Marchiafava** read the next agenda item.

**A Resolution appointing Mortimer L. Smedley as Interim City Manager.  
Resolution No. 08-10-47**

**Mayor Lockwood**

- This is an item we need to discuss with the City Attorney since it was added to the agenda.

**City Attorney Jarrard**

- This may raise an issue with respect to our rules.
- This was also not adopted with the motion that I think we needed to have had.
- This was not on the published agenda.
- He does not think it satisfies the definition of an emergency under the language we discussed earlier.
- Suspending the rules is the only mechanism by which to get this on.
- We need to do a motion for reconsideration with respect to the placement of this on the agenda followed by a motion to suspend the rules and add this on the agenda.

**Mayor Lockwood**

- He would say in this case it is in the best interest of the City to get this done.

**Motion to Reconsider and Vote:** Councilmember Lusk moved to reconsider this agenda item to appoint Mortimer L. Smedley as Interim City Manager. Councilmember Hewitt seconded the motion. There was no Council discussion. The motion passed unanimously.

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**Motion and Vote to Suspend the Rules:** Councilmember Lusk moved to suspend the rules. Councilmember Hewitt seconded the motion. There was no Council discussion. The motion passed unanimously.

**City Clerk Marchiafava** read the next agenda item.

*Added by Motion and Vote*

**A Resolution appointing Mortimer L. Smedley as Interim City Manager  
Resolution No. 08-10-47**

**Mayor Lockwood**

- Formally introduced Mortimer L. Smedley as his candidate and first choice for the Interim City Manager.
- He is proud to welcome him to Milton and looks forward to the opportunity of moving forward.

**Motion and Vote:** Councilmember Lusk moved to approve a Resolution appointing Mortimer L. Smedley as Interim City Manager. Councilmember Thurman seconded the motion. There was no Council discussion. The motion passed unanimously.

**MAYOR AND COUNCIL REPORTS**

**Councilmember D'Aversa**

- We had what set out to be a community meeting last Thursday night that spawned from request that she gets quite often to visit with HOAs.
- Last year around this same time we visited a couple of HOAs.
- She and the Mayor at their request went to discuss different issues and be there to answer questions.
- This year when those request started coming, she realized it was going to take up a considerable amount of time and that possibly having something here at city hall or in another meeting area where we could address those similar types of questions all at one time would be a good idea.
- Most of my requests come from districts five and six, so they decided to have a meeting to discuss those areas or entertain people discussing issues from those areas. Staff was invited through Public Safety Director Lagerbloom to come together as a team and to discuss with these people issues of importance and it was a great success.
- Public Safety Director Lagerbloom, Community Director Wakefield, Public Works Director Drake and Finance Director Inglis did a great job.
- Jestin was there to support us as well.
- It was just a good kind of home town meeting where everyone was able to ask whatever questions they wanted to and we addressed them.
- We asked to know what those items of greatest concern were to them, so we had a prioritization.
- She will let Councilmember Tart address that because he took home our wall hangings that addressed the items that were of greatest issue to the citizens that were in attendance.
- It was a good representation of the City.
- Something else that spawned out of the meeting was a real positive request that we do some of these types of thing in other areas of the City.
- She would encourage us all to be open to that and be proactive and plan them.
- She does not mean to inundate the city or ourselves with additional meetings because we have meetings three times a month that people can come to, but they obviously felt an openness to come and talk freely and informally at this type of meeting.

**Councilmember Tart:**

- Just wanted to thank staff.
- He sent them a thank you note but they came alive at that meeting and everybody he has talked to has been really appreciative of the meeting.

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- They have been very congratulatory of the staff and how professional they were and how prepared they were and how knowledgeable they were.
  - Staff proved that we are getting a lot done here despite the negative press and we really appreciate that and the citizens really appreciate that so thank you very much.
  - The way we did the prioritization, as issues came up the citizens wanted us to take action on as a Council; we wrote them on flip chart paper.
  - We put the flip chart paper along the wall and we gave everybody that was in attendance five votes.
  - They could put all five votes on one particular issue that was of importance to them or they could break their vote up so that the cream rose to the top at the end of the meeting so we could really determine what we need to focus on in and around the highway 9 area.
  - One of the highest items that came out from that list was the request of the citizens to have more of these type meetings so it was a very positive thing and he was glad to be part of it.
  - Thank you staff.

#### **Mayor Lockwood**

- Thanked Councilmember D'Aversa, Councilmember Tart and staff.
- Thinks it is a great idea.
- He has already talked to Interim City Manager Smedley about setting a retreat and our work plan.
- He would support and ask we have more of those meetings.
- There are certain needs of certain areas that other people do not have and they may not feel comfortable if we have a community wide meeting.
- Would love to see us move forward so once a quarter or so, we could have that and maybe do two districts at a time.
- That would allow those Council Members to field questions.

#### **Councilmember Thurman**

- Would love to see us have three meetings a year.
- Highway 9, Crabapple, and then the Birmingham northern part, we could easily divide the city and that keeps the staff from having to show up monthly at meetings but allows us to have three different areas covered.
- She will be glad to do anything she can to help.

#### **Councilmember Zahner Bailey**

- Would like to brag on Councilmember D'Aversa and Councilmember Tart.
- She was at the meeting and it was very positive and she is glad to hear they want to proceed and have more town hall meetings.
- Thinks it levers what they heard from the three consultants that public works brought to the table.
- Sometimes just having a different place for people to meet might make them feel it is more informal.

#### **STAFF REPORT**

##### **Public Safety Director Lagerbloom**

- As a reminder, Representative Jones has agreed to be here on November 10, 2008.
- The Mayor will send the list of questions to her prior to the meeting at her request.
- That is so she can be prepared when she gets here and not to have to answer every question with "I will have to get back to you."
- She is not limiting the questions, but would just like to be prepared.
- Had an opportunity to meet with representative from the Alpha Art Guild.
- It looks as though there is interest in them displaying some community artist work around City Hall and this would be at no cost to the City.

- The noise ordinance will come forward November 3<sup>rd</sup> and 17<sup>th</sup>.

#### **Community Development Director Wakefield**

- Council received several e-mails from CPAC Chairman George Ragsdale.
- It was the partial update and it was disjointed so she has copies on CDs that has the entire document in chronological order.
- The public hearing will be the 3<sup>rd</sup> and the target date to have it transmitted to ARC is mid December.

#### **Councilmember Zahner Bailey**

- Asked who the point of contact would be to have some school specific rotating art from some of our schools.

#### **Public Safety Director Lagerbloom**

- Will have to discuss that and get back with Council on it.
- Have some questions to address with City Attorney as we move through this.
- In the unlikely event that someone were to house their art work in this building and it catch fire for example we want to make sure we are not opening ourselves up to undue liability and to make sure we have some ability to manage the content.

#### **Project Coordinator Linda Blow**

- We do have an arts committee.
- The art that is on the wall is handled through our arts committee.
- Everything here is covered by our insurance.
- She made sure of that before we had it brought in.
- This art is coming down next week and some other will go up.
- The Alpha Art Guild has been e-mailing her wanting to be next.
- She just wanted to comment on that so we can get together and not have people fighting for wall space.

#### **Mayor Lockwood**

- Thanked Mortimer Smedley for being here and taking on the challenge of Milton.
- He also thanked all of staff.
- We are moving forward and he feels good about it.
- People are finally getting how sharp our staff is and what a great team we have.

#### **Public Works Director Drake**

- Our resurfacing project started today, as well as our gravel roads reconstruction project.
- That is a total of \$800,000 of work that started today will be wrapped up in the next three or four weeks.
- They started on the east side of town and moving west over the next couple of weeks.

#### ***Added by Motion and Vote***

#### **EXECUTIVE SESSION**

**The purpose of the Executive Session is to discuss potential land acquisition.**

**Motion and Vote:** Councilmember Lusk moved to adjourn into Executive Session at 8:33 p.m. Councilmember Hewitt seconded the motion. There was no Council discussion. The motion passed unanimously.

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**RECONVENE**

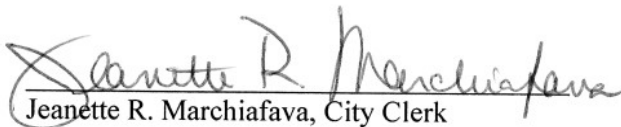
**Motion and Vote:** Councilmember Hewitt moved to reconvene the Regular Meeting at 8:46 p.m. Councilmember Lusk seconded the motion. There was no Council discussion. The motion passed unanimously.

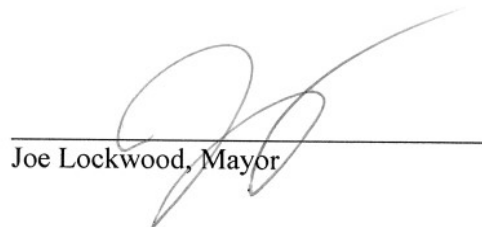
**ADJOURNMENT**

After no further business, the Regular Meeting adjourned at 8:47 pm.

**Motion and Vote:** Councilmember Hewitt moved to adjourn the Regular Meeting. Councilmember D'Aversa seconded the motion. There was no Council discussion. The motion passed unanimously.

**Date Approved:** November 3, 2008

  
\_\_\_\_\_  
Jeanette R. Marchiafava, City Clerk

  
\_\_\_\_\_  
Joe Lockwood, Mayor